

**Reform Viatical Laws – SB151**

**BUSINESS & LABOR**

**Sponsored by Senator John Brueggeman at the request of the State Auditor's Office**

EXHIBIT NO. 10  
DATE 1-27-09  
BILL NO. SB 151

A viatical settlement is a contract that allows an individual to sell his life insurance policy to a licensed entity, called a viatical settlement provider, for an amount less than the death benefit of the policy. The viatical settlement provider then becomes the owner and beneficiary of the policy. Upon the death of the insured, the viatical settlement provider will receive the death benefit of the policy.

When originally enacted in 1997, viatical settlements allowed terminally ill individuals to use a portion of the death benefit of their life insurance policies for making their end of life more comfortable, paying for experimental treatment that might not be payable under their health insurance, or paying for everyday living expenses when they have lost their income.

In the last 12 years, the viatical settlement industry has changed dramatically. The option to sell your life insurance policy is no longer limited to the terminally ill. Further, the majority of insurance policies purchased by viatical settlement providers today are from individuals at least 65 years of age with a life expectancy of more than 24 months. These transactions are known in the industry as "life settlements" and were allowed in Montana when previous legislation removed the requirement that individual be terminally ill before selling his life insurance policy in a viatical settlement.

SB 151 addresses the changes in the viatical settlement industry and is based on the most recent model act of the National Conference of Insurance Legislators (NCOIL). The NCOIL model act and SB 151 include provisions addressing fraud, disclosure requirements, prohibited practices, and conflict of laws. SB 151 also expands the definition of insurance transaction in regard to privacy protections to include viatical settlement contracts.

**Section 1**

33-1-1301 ~ adding "viatical settlement contract", "viatical settlement broker", "viatical settlement provider" and "stranger-originated life insurance" or "STOLI" to the fraud education and prevention definitions.

**Section 2**

33-1-1302 ~ adding "viatical settlement contract" to current fraud code and reference new Section 3.

**NEW SECTION. Section 3**

outlines "Viatical settlement fraud".

**Section 4**

33-1-1303 ~ adding "viatical settlement contract" to the fraud reporting requirements.

Section 5

33-19-104 (14) ~ adding "(c) the soliciting of, negotiating of, or entering into a viatical settlement contract." to the Insurance information and Privacy protection codes

Section 6

33-20-1308 (4) ~ adding provisions to address the case where the viator retains an interest in the policy.

Section 7

33-20-1311 ~ (1) (a) through 2 (e) adding additional disclosure information to policyholder that were not in our current codes, replacing "the fact" with "a statement" to be consistent throughout this section.

Section 8

33-20-1313 (1) ~ adding additional conditions where a viatical settlement can be entered into prior to the 2-year prohibition period.

(3) through (4) and (6) through (8) ~ striking these provisions and moving them to NEW SECTION. Section 10. Prohibited practices

Section 9

33-20-1314 ~ striking "immediately upon" and replacing with "Within 3 business days after". We have no definition for "immediately". Gives providers a clearer deadline.

NEW SECTION. Section 10. Prohibited practices. As described above in Section 8

NEW SECTION. Section 11. Conflict of laws. Adding provisions in the case where there is more than one owner on a single life insurance policy and the owners are residents of different states.

NEW SECTION. Section 12. Codification instruction

NEW SECTION. Section 13. Severability

NEW SECTION. Section 14. Effective dates

## How Life Insurance Becomes a Wager on Human Life

